

TESTIMONY  
BY  
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BEFORE THE  
HOUSE FINANCIAL SERVICES  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
AND  
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Madam Chairwomen, members of the Subcommittees, I am pleased to be here to present some views from the insurance industry regarding an issue that has become a major cost driver in homeowners insurance.

I would like to take a moment to say how many people appreciate the leadership shown by the House Financial Services Committee regarding terrorism and insurance since last fall. The Insurance Information Institute is a public education and not a lobbying organization, so it's not my role to say that one bill is better than another. However, nothing has changed since September 11 that makes terrorism broadly insurable based on the experience of that one tragic day and we wish you every success in your efforts.

The year 2001 was the worst in the history of the property and casualty insurance industry. Insurers paid out \$53 billion more in claims and expenses than they collected in premium. Certainly the extraordinary loss suffered on September 11 contributed to that amount, but it was shaping up as a difficult year even before the attacks occurred. We estimate that in the homeowners sector, insurers experienced an \$8.9 billion loss. As you know, when costs far exceed what insurers collect in premiums, prices go up.

Mold is a major factor in these increased costs. Conditions have reached crisis proportions in Texas, and mold has become a serious problem in several other states, including California, Florida, Arizona, and Nevada. Commercial and residential mold claims are now common in most other states as well.

I include for further study an extensive background presentation of slides that show the significant increase in the number of mold claims, the escalating costs associated with mold remediation, and the impact of these increased claims and lawsuits. Just to cite a couple of numbers:

- ? Mold claims in Texas rose 1,306 percent between the first quarter of 2001 and the fourth quarter of 2002.
- ? The frequency of mold claims per 1,000 policyholders rose 1,286 percent during the same period.
- ? Mold claims costs in Texas rose 560 percent between 2000 and 2001.

Mold itself is a type of fungus that is hundreds of millions of years old. It is—and has always been—everywhere. Up until the last few years, insurance adjusters routinely handled mold in the context of claims for water damage from a “sudden and accidental” cause, which is the only circumstance under which mold is covered in the standard homeowners contract.

In fact, mold damage has for many years been specifically excluded from standard homeowners insurance policies, unless it is the result of a covered peril such as a burst pipe. To quote the standard (ISO HO2000 HO-3) form:

2. *We do not insure, however, for loss:*

c. *Caused by:*

(5) **Mold, fungus or wet rot. However, we do insure for loss caused by mold, fungus or wet rot that is hidden within the walls or ceilings or beneath the floors or above the ceilings of a structure if such loss results from the accidental discharge or overflow of water or steam from within.**

The simple presence of mold, like termites and damage from vermin, is considered a home maintenance issue and not covered by insurance.

Nevertheless, the traditional homeowners policy contract and certain commercial insurance policies are now being called upon to deal with a surge of claims for mold damage and related health problems for which there is no coverage and no premium has been collected. In homeowners insurance, large jury awards, adverse judicial and regulatory decisions and fear of litigation have led to uncertainty about the longstanding coverage exclusion for mold. The result is that insurance has become more expensive and more restrictive, with insurers being forced to pull back from markets in many states.

A review of the Texas mold experience illustrates how rapidly an insurance market can become dysfunctional.

- ✍ Three years ago, the few claims that insurers did see were handled for a few thousand dollars. Insurers report that the average mold claim now costs approximately \$35,000, though claims today can easily exceed \$100,000 or more.
- ✍ The average cost per policyholder per year due to mold increased 1,805% between the first quarter of calendar year 2000 (\$23.32) and the third quarter of 2001 (\$444.35).
- ✍ In Texas alone, insurers paid out \$854 million in 2001, according to figures released by the Department of Insurance, a 560% increase over the \$153 million paid in the previous year. The amount will continue to rise as insurers receive more claims in the wake of recent severe storms and floods in the state.

The surge in the frequency and cost of mold claims in Texas cannot be explained by changes in the weather, nor can it be explained by population growth or expansion in the stock of housing. What has changed is the legal climate dominated by some who see mold as a huge moneymaker and use mass marketing and media to advertise for clients and class action participants, as well as to instill fear in the public. The anxiety that follows the publicity has been exploited by so-called mold experts, testers and remediators who have joined in the money chase and who often target vulnerable populations.

Consider the following wide variations in claims experience among key Texas communities:

- ? The average claim in Corpus Christi costs \$50,000 to remediate, and \$15,000 in El Paso. The frequency of claims in Corpus Christi is 27 per 1,000 policyholders; in El Paso, .05 per 1,000 policyholders. It's no coincidence that the mold claims experience in Corpus Christi, where trial lawyers go door-to-door looking for clients, is more than two times higher (based on claims per 1,000 insured) than other coastal communities, including Brownsville and McAllen, and nearly four times higher than Houston.

Nationally, insurers today face more claims without any effective federal or state standards on exposure levels. They face increased costs for the average claim, driven by remediators who lack formal training or professional certification. Companies face a growing number of court cases with accusations of severe and permanent health damage, without any peer-reviewed scientific research that establishes a link between mold and serious health consequences. Health claims are being brought under property policies that were never intended to cover them, instead of health insurance. Fearing bad faith lawsuits, insurers often agree to expensive tests and remediation procedures. Finally, there is no accepted body of research on the relation, if any, among building materials, construction technologies, and mold.

Partly as a result of the uncertainty around mold, the cost of homeowners insurance nationally is expected to rise by close to 10 percent this year on average, but some states are seeing increases far in excess of that amount. A number of insurers are implementing or seeking rate increases of up to 25 percent in Texas and California, the two states that account for most mold claims today. Rate increases in the 10 to 15 percent range are common elsewhere.

For most of us, our homes are our largest and most important asset. Homeowners insurance is really intended to protect us from a catastrophic loss or a liability that otherwise might force us to lose that asset, not compensate for maintenance that isn't done. Potential rate increases, driven in part by the unprecedented surge in mold claims, threaten to make home insurance coverage unaffordable for some and unavailable for others.

Thank you. I look forward to responding to your questions.